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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,858	12/27/2001	Steven Barritz	P/3704-7	1455

2352 7590 07/25/2005

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER

ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/034,858	Applicant(s) BARRITZ ET AL.	
	Examiner Neveen Abel-Jalil	Art Unit 2165	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

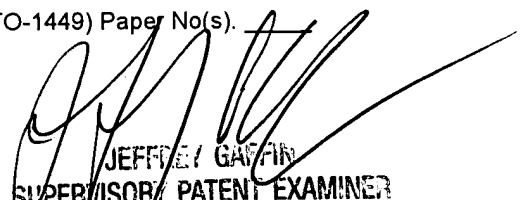
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____


 JEFFREY A. GAFFIN
 SUPERVISOR/PATENT EXAMINER
 TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed on June 23, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that "Krellenstein does not teach or suggest modifying and supplementing search categories and search attributes interactively into a degree automatically by both listers and searches" is acknowledged but it is not deemed to be persuasive.

The Examiner maintains that indeed Krellenstein teaches in column 5, lines 25-41, refining search results (i.e. search terms by providing additional search terms) and furthermore presenting additional search result categories to the user apart from the original set; while the Examiner also like to point out that the claim language does not state modifying and supplementing instead it teaches "modyfiying OR supplementing" indicating either can take place.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., modifying and supplementing search categories and search attributes interactively into a degree automatically) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner likes to point out that the claim language does not state modifying and supplementing instead it teaches "modyfiying OR supplementing" indicating either can take place.

The Examiner also like to state that the computer does not distinguish whether its user is a lister or a searcher since the user can be both at the same time.

In response to applicant's argument that "Krellenstein does not teach or suggest a cooperative facility associated with a categorization system that enables listers and searchers to interactively modify or supplement search terms initially assigned to the items to be found by the categorization system" is acknowledged but not deemed to be persuasive.

The Examiner maintains that Krellenstein indeed teaches the argued limitation as stated in the final office action specifically in column 5, lines 25-41, wherein the original results are presented to the user and stored as well as the refined results and any additional search result category the system provides.

In response to applicant's argument that "Epstein does not teach or suggest applicant's categorization system that associates search terms defining categories or attributes with items to be found" is acknowledged but not deemed to be persuasive.

The Examiner refers to the combination of Krellenstein with Epstein to teach the argued limitation as stated in the Final office action.

Epstein is introduced to teach the limitation of listers and searchers in page 5, paragraphs 0049-0052, wherein authorized contributors are interpreted as listers and any user searching the system is interpreted to be a searcher.